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*Honorable Robert S. Lasnik*

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

LARRY PIFER and PAMELA PIFER,  
Husband and Wife,

Plaintiffs,

vs.

BANK OF AMERICA N.A., a national  
association, SPECIALIZED LOAN  
SERVICING LLC, a foreign corporation,  
SHELLPOINT, LLC a foreign corporation,  
and THE BANK OF NEW YORK AS  
TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF THE CWABS,  
INC., ASSET-BACKED CERTIFICATES,  
SERIES 2007-8, a national association,

Defendants.

No. 2:18-cv-00606-RSL

**DEFENDANT BANK OF AMERICA,  
N.A.'S REPLY TO PLAINTIFFS'  
RESPONSE AND OBJECTION TO  
MOTION TO DISMISS**

The gravamen of Plaintiffs' Complaint is that Bank of America, N.A. ("BANA") offered them a loan modification in 2011, Plaintiffs' performed briefly, but then – despite receiving no affirmative indication whatsoever that the loan modification was not implemented – Plaintiffs decided on their own accord to default on the modified loan once again. Plaintiffs inexplicably attempt to pass the blame for their own conscious decision to default on others without cause.

Plaintiffs then complain that, two years later, BANA again offered them an opportunity to avoid foreclosure through a trial modification offer. However, Plaintiffs balked at the offer because its terms did not vibe with the prior loan modification – the one they admittedly

DEFENDANT BANK OF AMERICA, N.A.'S REPLY  
TO PLAINTIFFS' RESPONSE AND OBJECTION TO  
MOTION TO DISMISS - 1



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1 breached. Again, Plaintiffs made the conscious decision to not perform and instead chose to  
2 remain in default.

3 Through this action, Plaintiffs attempt to justify their obvious mistake in judgment by  
4 contending that they were confused by the correspondence they received from BANA. The  
5 Court should see through Plaintiffs' convenient narrative. The fact remains that Plaintiffs were  
6 offered a modification in 2011, but chose to default. FAC ¶¶11-12; Ex. D. Plaintiffs were  
7 offered a trial modification on March 4, 2013, but chose not to perform. FAC ¶¶15 & 17; Ex. H.  
8 A letter sent two years prior - advising Plaintiffs that the program they were reviewed under *at*  
9 *that time* did not allow for more than one modification - is immaterial. FAC ¶14; Ex. G.  
10 Plaintiffs chose to ignore the real possibility that the subsequent trial modification offer came  
11 under a different loan program. Moreover, a subsequent letter received *after* the trial  
12 modification offer – advising merely that they were denied in September 2012 – also fails to  
13 justify Plaintiffs' actions or their now self-serving narrative of alleged deceit. FAC ¶16; Ex. I.

14 The unvarnished truth is that Plaintiffs exclusively caused all of the harm they claim to  
15 have suffered in this action and, as a result, have failed to state a single claim against BANA.  
16 For the reasons set forth in BANA's motion to dismiss, BANA respectfully requests that the  
17 Court grant this motion and dismiss BANA from this action with prejudice.

18 DATED this 15<sup>th</sup> day of June, 2018.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of June, 2018, I caused to be electronically filed the foregoing DEFENDANT BANK OF AMERICA, N.A.'S REPLY TO PLAINTIFFS' RESPONSE AND OBJECTION TO MOTION TO DISMISS with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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2. I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants at the address listed below: **None.**

3. I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants at the address listed below: **None.**

4. I hereby certify that I have hand-delivered the document to the following participants at the addresses listed below: **None.**

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